

Dear Midwest Flight Attendant,

Midwest Airlines management recently notified the MEC that a bankruptcy filing cannot be ruled out within the next few weeks. Additionally, the MEC office has received numerous calls about bankruptcy, given the state of the industry, our company, the recent bankruptcies of Aloha Airlines, ATA, Skybus, Frontier, and recent world events.

The questions and answers below are intended to begin explaining the bankruptcy process and what it would mean for us.

1. What is a bankruptcy?

A bankruptcy is a legal proceeding intended to protect a company from its creditors while its debts are renegotiated and/or restructured. A bankruptcy filing imposes a special set of rules and standards governing a company's rights and obligations after the company files a "bankruptcy petition." A bankruptcy also determines the rights and obligations of creditors and other parties. A creditor is an individual or business that has a claim against the bankrupt company (known as the debtor) that usually arises prior to the bankruptcy being filed. The laws governing a bankruptcy are contained in the U.S. Bankruptcy Code. Bankruptcy proceedings are supervised by the U.S. Bankruptcy Courts, which are a division of the U.S. District Courts.

2. What are the differences between a Chapter 7 and a Chapter 11 bankruptcy?

There are two types of bankruptcy filings. A Chapter 7 filing is a liquidation proceeding where a company terminates operations. A trustee liquidates assets and pays out available funds to various classes of creditors pursuant to rules provided in the Bankruptcy Code. A Chapter 11 filing is a reorganization proceeding that is intended to provide a company an opportunity to restructure its operations and finances. The goal is to emerge from bankruptcy pursuant to a plan of reorganization. In airline and other Chapter 11 bankruptcies, companies normally seek a seamless transition in operations upon filing, so customers do not recognize a break or difference in service. In a Chapter 11 bankruptcy, a company may attempt to reorganize its operations in a "stand alone" reorganization or sell some or most of its assets as a going concern. A Chapter 11 filing does not guarantee that a company will obtain the new funding that is often necessary for a company to continue operating. Though this kind of bankruptcy filing is structured to prevent liquidation, liquidation can occur in a Chapter 11 proceeding if attempts to reorganize fail.

3. What are the rights a Company obtains in relation to labor contracts when it files Chapter 11?

Chapter 11 provides companies the right to seek court authority to reject otherwise binding contracts. Whether or not they exercise that right is a different question. An "automatic stay" attaches at the moment of filing. Pursuant to the automatic stay, most creditor's debt collection efforts and most litigation in which the company is involved are suspended. Debts become what are called bankruptcy "claims." They are usually dealt with in a plan of reorganization. The purpose of the automatic stay is to ensure that virtually all cases that could be filed or have already been filed are dealt with in one place – the bankruptcy court.